IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2278 OF 2006

Shivsing Sardarsing Rajput .... PETITIONER.

....Versus....

State of Maharashtra, & others. .... RESPONDENTS.

Mr. A.A. Naik, Advocate for petitioner.
Mrs. B.H. Dangre, A.G.P. for respondent nos.1 & 2.
Respondent nos. 3 & 4 absent though served.

CORAM : A.P. LAVANDE & R.V. MORE, JJ.

DATED : SEPTEMBER 24, 2007.

ORDER

Heard Mr. A.A. Naik, learned Advocate for petitioner and Mrs. B.H. Dangre, learned A.G.P. for respondent nos.1 & 2. Respondent nos. 3 & 4 absent though served.

2. The petitioner challenges the order dated 12.4.2006 passed by respondent no.2 Caste Scrutiny Committee whereby the petitioner's caste certificate as belonging to Rajput Bhamta issued by Executive Magistrate, Akola was held to be invalid and same

was confiscated.

3. The petitioner was appointed as a Gram Sevak with respondent nos. 3 & 4 as a candidate belonging to the reserved category, i.e. Rajput-Bhamta (Vimukta Jati). The caste certificate of the petitioner granted by Executive Magistrate, Akola on 26.4.1985 was sent for scrutiny to the respondent no.2 Caste Scrutiny Committee. The police vigilance cell report was obtained and thereafter, after giving an opportunity to the petitioner, the petitioner's caste claim came to be decided by the order impugned in the present petition. The petitioner in order to prove his caste claim relied upon several documents including validity certificate bearing No. 006200 dated 20.7.1991 in respect of Ranjitsingh Ishwarsingh Rajput given by Pune Committee along with affidavit of said Ranjitsingh dated 12.9.2003. The petitioner also relied upon vigilance cell report dated 14.3.2005 which prima facie concluded that the petitioner belongs to Rajput Bhamta caste.

4. The respondent no.2 Scrutiny Committee refused to validate the petitioner's caste certificate which order is impugned in the present petition.

5. The petitioner's submissions are two-fold. Firstly, the respondent no.2 Caste Scrutiny Committee committed serious error in not considering the validity certificate of Ranjitsingh Ishwarsingh Rajput. In this regard, our attention was invited to the document at page no.22 document showing genealogy of the family in which the petitioner is shown to be cousin of said Ranjitsingh. He also pointed out document at page 25-A which is affidavit of said Ranjitsingh under which said Ranjitsingh has declared his caste as Rajput-Bhamta and that petitioner is his close relative. He also invited our attention to the averment in para 8-A of the petition wherein it is specifically pleaded that in spite of the fact that said Ranjitsingh being petitioner's close relative having validity certificate, the Caste Scrutiny Committee did not consider this documentary evidence. Secondly, it is submitted that vigilance cell report being in favour of the petitioner, the Caste Scrutiny Committee respondent no.2 committed error in brushing aside this report. The petitioner also relied on Circulars dated 8.5.1991 & 25.8.1997.

6. The learned Counsel for the respondent nos. 1 & 2 supported the impugned order by pointing out that the impugned order is correct and legal as the petitioner failed to prove kinship between himself and said Ranjitsingh Rajput.

7. Having heard the learned Counsel for the respective parties and having gone through the documents on record, we are of the considered view that the matter deserves to be remanded back to the respondent no.2 Caste Scrutiny Committee on the grounds mentioned hereinafter.

8. Before the Caste Scrutiny Committee the petitioner heavily relied upon the validity certificate in respect of one Ranjitsingh Ishwarsingh Rajput given by Pune Committee on 20.7.1991 and the affidavit of said Shri Ranjitsingh which was affirmed on 12.9.2003. This piece of documentary evidence relied upon by the petitioner was not considered by the respondent no.2 Caste Scrutiny Committee on the ground that the petitioner could not establish kinship between himself and said Ranjitsingh and secondly, petitioner also failed to produce the documentary evidence of forefathers of Ranjitsingh Rajput showing their caste

as Rajput-Bhamta prior to 1961. In our opinion, the second reason given by respondent no.2 Caste Scrutiny Committee for refusing to consider caste certificate of Ranjit Singh Rajput, namely, that petitioner failed to produce documentary evidence of forefathers of said Ranjitsingh showing their caste as Rajput Bhamta prior to 1961, is not correct. The respondent no.2 Caste Scrutiny Committee cannot sit in appeal over the decision of Caste Scrutiny Committee, Pune which has granted validity certificate to said Ranjitsingh. In our considered view, the respondent no.2 Caste Scrutiny Committee could not have expected petitioner to produce documentary evidence of forefathers of said Ranjitsingh showing their caste as Rajput-Bhamta prior to 1961. The caste validity certificate in favour of Ranjitsingh Rajput is as on date valid and same is not set aside. In view of this certificate, the respondent no.2 Committee could not have gone behind the certificate and asked for some additional evidence.

9. The Government of Maharashtra has issued circular dated 8.5.1991. By this circular, it is specifically made clear that candidate claiming to belong to Rajput-Bhamta caste if proves that

his close relations belong to Rajput-Bhamta caste and files an affidavit that these persons are his close relatives, then in that case there should not be objection to grant validity certificate of Rajput Bhamta caste. By another circular dated 25.8.1997, the Government has made it clear that circular dated 8.5.1991 is in force and if the person is complying with the conditions laid down in that circular as well as he complies with conditions mentioned in Exh.A of circular dated 3.6.1996, then there should not be any objection to grant validity certificate of Rajput-Bhamta caste .

10. The respondent no.2 refused to validate petitioner's caste claim on the ground that petitioner failed to establish kinship between himself and said Ranjitsingh. As stated above, the petitioner has given genealogy at Exh. C which shows that Ranjitsingh is his cousin. He has also made averment in the petition that said Ranjitsingh is his cousin. In view of these facts, coupled with the abovesaid two circulars dated 8.5.1991 & 25.8.1997, we are of the opinion that the petitioner's claim that he belongs to Rajput-Bhamta community is required to be considered by respondent no.2 Caste Scrutiny Committee afresh in the light of

the observations made hereinabove. The respondent no.2 shall consider the Vigilance Cell Report afresh in proper perspective. In view of the above, we pass the following order :-

The impugned order is quashed and set aside. The matter is remanded back to the respondent no.2 Caste Scrutiny Committee to decide the petitioner's caste claim afresh in the light of observations made in the above order.

The respondent no.2 Caste Scrutiny Committee is directed to hear and decide the petitioner's caste claim as belonging to Rajput-Bhamta caste as early as possible and not later than the period of four months from the date of receipt of the order after giving opportunity of hearing to the petitioner. The petitioner agrees that he will remain present before the respondent no.2 Caste Scrutiny Committee on 19.10.2007 at 11 A.M.

With these directions, the writ petition stands disposed of.

JUDGE. **JUDGE**.

Jes.